

REMARKS

Claims 26-30, 32-35 and 37-45 have been rejected under 35 USC 112 as being indefinite. The claims as amended are believed to comply with the requirements of 35 USC 112.

Claims 26-30, 32-35 and 37-45 have been rejected under 35 USC 103 as being unpatentable over SS Pharmaceutical in view of Tsunoda, Yeh et al and Lambelet. Applicant claims a method of indication for a unit dose of an orally consumable material for relief of discomfort and supplementing nutrition by enclosing a unit dose having predetermined amounts of both nutritional supplement and discomfort reliever. The nutritional supplement is neither adapted to aid in relieving discomfort nor adapted to aid in relieving side effects of the discomfort reliever. The discomfort reliever is not adapted to aid in nutrition supplementing of the nutritional supplement. The percent of a recommended daily amount of the nutritional supplement in the unit dose is indicated. Neither SS Pharmaceutical, Tsunoda, Yeh et al nor Lambelet disclose supplementing nutrition or indicating a percent of a recommended daily amount for the nutritional supplement. Neither SS Pharmaceutical, Tsunoda, Yeh et al nor Lambelet disclose discomfort reliever and nutritional supplement, which is not adapted to aid in relieving discomfort. Accordingly, the claims are not unpatentable over SS Pharmaceutical in view of Tsunoda, Yeh et al and Lambelet.

SS Pharmaceutical discloses a cold medicine and painkiller containing ibuprofen and vitamins C and B1, as see lines 2-3 of the

abstract. Tsunoda discloses a synergistic effect against pain of ibuprofen and vitamin C, as see lines 2-3 of the abstract. Hawley's Condensed Chemical Dictionary, 1997, at page 1097 under thiamine, discloses an effect of vitamin B1 (thiamine) against pain (neuritis), as see EXHIBIT A. [It is noted that neuritis causes pain, as see Webster's II New College Dictionary, 1999, page 735, at neuritis (EXHIBIT B)] Thus, neither SS Pharmaceutical nor Tsunoda discloses supplementing nutrition, a nutritional supplement, which does not aid in relieving discomfort, or indicating a percent of a recommended daily value (or amount) of a nutritional supplement, as required by Applicant's claims. Also, neither Yeh et al nor Lambelet discloses supplementing nutrition or indicating a percent of a recommended daily value (or amount) of a nutritional supplement, as required by Applicant's claims. Accordingly, the claims are not unpatentable over SS Pharmaceutical in view of Tsunoda, Yeh et al and Lambelet.

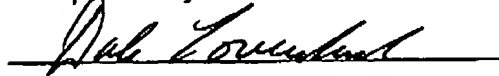
Yeh et al discloses topical treatment of periodontal disease with a synergistic anti-inflammatory and an antioxidant, as see column 1, lines 6-7 and column 2, lines 1-12. Yeh et al does not disclose supplementing nutrition or indicating a percent of a recommended daily value (or amount) of a nutritional supplement. Furthermore, periodontal disease is not a discomfort and topical treatments are not orally consumable as defined and used in the above captioned patent application. Discomfort and orally consumable material are defined the above captioned patent application at page 4. Discomfort and orally consumable material as defined in the above captioned patent application are not disclosed by Yeh et al.

Lambelet discloses a pharmaceutical container, as see column 2, lines 15-40. Lambelet does not disclose supplementing nutrition, a nutritional supplement, which does not aid in relieving discomfort, or indicating a percent of a recommended daily value (or amount) of a nutritional supplement, a discomfort or a discomfort reliever. Thus, Lambelet, and as discussed above, SS Pharmaceutical, Tsunoda, and Yeh et al do not disclose supplementing nutrition or indicating a percent of a recommended daily amount of a nutritional supplement, as is required by Applicant's claims. Accordingly, the claims are not unpatentable over SS Pharmaceutical in view of Tsunoda, Yeh et al and Lambelet.

Applicant claims enclosing a unit dose having a predetermined amount of nutritional supplement, which does not aid in relieving discomfort and indicating a percent of a recommended daily amount of the nutritional supplement in the unit dose. It is noted that 21 CFR 121.57 is directed to the labeling of drugs, and does not mention nutritional supplements, supplementing nutrition or indicating a percent of a recommended daily amount of a nutritional supplement.

The claims are believed to be allowable. Such action is respectfully requested.

Respectfully submitted,



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